Sherwood, 148 U. S., 529; *Board of Com'rs Hamilton County* v. *Mighels,* 7 Ohio St. 110; *Lowndes County* v. *Hunter,* 49 Ala. 507; *Rock Island County* v. *Steele,* 31 Ill. 543; 11 Cyc. 607. This rule under judicial decision has developed interestingly in Kentucky until it finds the following expression in the case under discussion: "Counties are not liable to suit, unless authority for it can be found in the statute, or it follows by necessary implication from some express power given." The court under this principle reaches the following conclusion: "Where a county has the power to make a contract, it would follow as an incident that it might sue or be sued concerning it." In denying the plaintiffs' relief, the Court decides that the language refers to express and not implied contracts. In the last quotation if we should substitute "state" in the place of "county," it is doubtful whether the theory assumed in deciding the case would justify the conclusion.

CRIMINAL LAW—WHAT CONSTITUTES A DISORDERLY HOUSE.—Defendant was charged with the habitual taking of usurious interest for loans made by him at his place of business, and convicted of keeping a disorderly house. (3 Gen. St. 1895, p. 3703.) On writ of error for review of the judgment of the Supreme Court affirming the conviction, it is *held* that a person who maintains a place of business, in which the law against usury is habitually violated, is guilty of the offence of keeping a disorderly house. *State* v. *Martin* (1909), — N. J. L.—, 73 Atl. 548.

In the common acceptance of the term, "disorderly house" has usually been held to involve moral turpitude or criminality. New York, for example, in Penal Code, §322, defines the keeper of a disorderly house as one "who keeps a house of ill fame, or assignation of any description, or a house or place for persons to visit for unlawful sexual intercourse, or for any lewd, obscene or indecent purpose, or disorderly house, or house commonly known as a 'stale beer dive'." Other states, whose legislatures have seen fit to define the term in so many words, have in each case incorporated into it an element of criminality or moral danger to the public, else it was not a disorderly house. The principal case, however, is well supported in New Jersey by former decisions. (*State* v. *Williams,* 30 N. J. Law 102; *State* v. *Hall,* 32 N. J. Law 158; *McLean* v. *State,* 49 N. J. Law 471; 9 Atl. 681; *Haring* v. *State,* 53 N. J. Law 664, 23 Atl. 581; *Meyer* v. *State,* 42 N. J. Law 145; *State* v. *Dimant,* 73 N. J. L. (44 Vroom.) 131, 62 Atl. 286.) These cases hold as a general principle, that any place public in nature, in which illegal practices are habitually carried on, is a disorderly house. The following are a few cases showing the more commonly accepted construction of the offense. *Kneffler* v. *Commonwealth,* (1893), 94 Ky. 359, 22 S. W. 446; *Commonwealth* v. *Kimball,* 73 Mass. (7 Gray) 328; *State* v. *Ireton,* 89 Minn. 340, 94 N. W. 1078; *Ramey* v. *State,* 39 Tex. Cr. R. 200, 45 S. W. 489; *State* v. *McGahan,* 48 W. Va. 438, 37 S. E. 573.

DAMAGES—ALLOWANCE OF ATTORNEY'S FEES—RULE IN HADLEY V. BAXENDALE APPLIED.—Defendant, a director of the plaintiff company and manager of one of its branches, was notified to renew a lease which was about to expire. After considerable delay he renewed the lease which contained a

provision that it could not be assigned without the consent of the lessor, taking it in his own name. Considerable expense in the shape of attorney's fees and costs of suit were required to put the plaintiff in the possession of its rights and an item was made of this sum together with other elements to make up the plaintiff's damage. *Held,* that if one is about to lose possession of premises by reason of the wrongful act of another, and is obliged to employ professional aid and incur other reasonable expense to retain possession to which, as between him and that other, he is entitled, then the necessary expense thus incurred is an element of the injury. *McGaw* v. *Acker, Merrall & Condit Co.,* (1909), — Md. —, 73 Atl. 731.

The taxing of attorney's fees and costs as an element of damages has rarely been permitted in this country. There was some attempt to borrow from the civil law the rule of allowing such damages but it did not gain favor. SUTHERLAND, DAMAGES; Ed. 3, §§13, 45, 46; SEDGWICK DAMAGES, Ed. 7, p. 487; *Day* v. *Woodworh et al.,* 13 How. 363. But an apparent exception to this rule is the case of taxing as damages attorney's fees and costs when the wrongful acts of defendant have involved the plaintiff in litigation with others or have placed him in such relations with others as to make it necessary to incur such expense to protect his rights. Such injury will be treated as the legal consequences of the original wrongful act, if it be "such as may fairly and reasonably be considered" as arising naturally and proximately from the breach, and if it be certain in nature and amount. *Hadley* v. *Baxendale,* 9 Exch. 341; *Philpot* v. *Taylor,* 75 Ill. 309; *Baxendale et al.* v. *London, C. & D. Ry. Co.,* L. R. 10 Ex. 35; *Rochester Lantern Co.* v. *Stiles etc. Co.,* 135 N. Y. 209, 31 N. E. 1018; *Scott* v. *Shepherd,* 2 Black., W., 892; *Vandenburgh* v. *Truax,* 4 Denio, 464.

EMINENT DOMAIN—TAKING OR DAMAGING PROPERTY—NOISE AND SMOKE FROM OPERATION OF RAILROAD.—Plaintiff erected a church a short distance from a single track line of railroad operated by defendant. Later the defendant increased the number of tracks to fourteen, having first obtained the required amount of land, and the permission, by ordinance, from the city. The plaintiff finding its religious services disturbed by the noise and smoke incident to the handling of trains, brings this action for damages under the constitutional provision of the state that "no property shall be taken or damaged for public use without compensation." *Held,* that plaintiff cannot recover.—*Twenty-Second Corporation of Church of Jesus Christ of Latter-Day Saints* v. *Oregon Short Line R. Co.* (1909), — Utah —, 103 Pac. 243.

That a railroad company is liable for physical injury to property, such as the disturbance of ingress and egress, obstruction of light and air, falling of cinders, removal of lateral support and jarring of buildings, is, it seems, fairly well settled; *Rigney* v. *City of Chicago,* 102 Ill. 64; *Adams* v. *Chicago, etc. R. Co.,* 39 Minn. 286, 12 Am. St. Rep. 644; *Lahr* v. *Met. El. Ry. Co.,* 104 N. Y. 268, 10 N. E 528. Also where shops are built in the immediate vicinity of business, or residence property, or a church, many courts have held that their presence would give rise to an action for damages, on the ground that